

## REMARKS

Pursuant to 37 CFR §1.607(a), applicant's hereby request that an interference be declared between the present application and U.S. Patent No. 5,507,731 (Hernandez et al.), issued April 16, 1997 ('731 patent), and U.S. Patent No. 5,607,406 (Hernandez et al.), issued March 4, 1997 ('406 patent).

Pursuant to 37 CFR §1.607(a)(2), applicants present new claims 29 and 30 as proposed count 1 and count 2, respectively.

Applicants submit that claim 15 of the '731 patent, claim 1 of the '406 patent, and applicant's claim 24 correspond substantially to proposed count 1, and that applicant's claim 29 corresponds exactly to proposed count 1. Applicants further submit that claim 9 of the '731 patent and applicant's claim 25 correspond substantially with proposed count 2, and that applicant's claim 30 corresponds exactly to proposed count 2.

Claim 15 of the '731 patent and claim 1 of the '406 patent corresponds to count 1 except for the requirement of grasping the guidewire while removing the catheter. These limitations relating to the guidewire are believed to be unduly limiting, and for that reason were not included in proposed count 1.

Claim 9 of the '731 patent corresponds substantially to proposed count 2, and is drawn to the same patentable invention as recited in applicant's claim 30. Proposed count 2 excludes the language in claim 9 of the '731 patent which calls for the shaft segment connectors to be connectable together "from a separate segment relation, to form the catheter while the distal catheter end is inserted into the vascular system of

the patient". These limitations to the extent they are understood are believed to be unduly limiting and were not included in proposed count 2 for that reason.

In accordance with 37 CFR §1.607(a)(5), applicant's claims 29 and 30 may be specifically applied to applicant's disclosure as follows:

CLAIM 29	APPLICANT'S 5, 498,240 PATENT
29. A method for performing a medical procedure using a catheter comprising the steps of:  a) providing a catheter with a first catheter shaft section having a proximal end, a distal end and a first inner lumen extending therein, a second catheter shaft section disposed proximal to the first catheter shaft section having a proximal end, a distal end and an inner lumen extending therein and a releasable connection between the distal end of the second catheter shaft section and the first catheter shaft section with the inner lumen within the first shaft section being in fluid communication with the inner lumen within the second catheter shaft section;	"method of treating a patient's body lumen", claim 12, col. 7, line 24.  Claim 12, col. 7, lines 26-30. "catheter having a proximal shaft section", col. 2, lines 33-34.  "distal shaft section", col. 2, lines 34-35.  "means to releasably secure the shaft sections", col. 2, lines 36-39.  "fluid communication between inner lumens", col. 6, lines 1-4.
b) inserting the catheter into a patient over a guidewire disposed in part within the patient, with at least a portion of the catheter extending out of the patient, to perform a medical procedure;	Claim 12, col. 7, lines 31-33. "catheter is advanced over a guidewire", col. 4, lines 24-26.
c) pulling the portion of the catheter extending out of the patient over the guidewire to withdraw at least part of the catheter from the patient; and	Claim 12, col. 7, line 37. "catheter is withdrawn from the patient", col. 4, lines 28-31.
d) disengaging one of the catheter shaft sections from the other catheter shaft section.	Claim 12, col. 7, lines 39-40. "shaft sections can be separated", col. 4, lines 28-34.

CLAIM 30	APPLICANT'S 5, 498,240 PATENT
<p>30. An intravascular catheter which comprises proximal and distal ends, a port in the distal end, an inflation lumen extending within the catheter to a distal portion thereof, a balloon on the distal portion of the catheter in fluid communication with the inflation lumen, a guidewire lumen extending within the catheter to the port in the distal end, said catheter comprising a plurality of shaft segments having connectors which are releasably secured together in end-to-end relation.</p>	<p>"intravascular catheter", claim 2, col. 6, line 5.          "proximal and distal ends", claim 1, col. 5, lines 56-58.          "balloon on the distal shaft section in fluid communication with second inner lumen", claim 2, col. 6, lines 6-8.            "third lumen configured to receive a guidewire extending to distal end port", claim 1, col. 5, lines 64-67.            "proximal and distal shaft sections", col. 5, lines 57 and 60.          "means to releasably interconnect the shaft sections", claim 1, col. 6, lines 1-4.</p>

Applicant's submit that the requirements of 35 U.S.C. §135(b) are met because claim 29 of the present application which corresponds exactly to proposed count 1, is substantially the same as claim 24 of the present application, which was present in the application when it was filed on April 16, 1997. Thus, applicants have claimed the invention within one year after the issue date of the '731 and '406 patents. Claim 29 is a verbatim copy of claim 24 except that claim 24 recites that the first inner lumen extends "to a location proximal to the distal end", and that at least a portion of the "second catheter shaft section" extends out of the patient and is pulled to withdraw the

catheter from the patient. Claim 29 calls for a first shaft section having a first inner lumen extending therein, and at least a portion of the "catheter" extends out of the patient and is pulled to remove the catheter from the patient. Accordingly, a claim to substantially the same subject matter as a claim of the '731 and '406 patents was made within one year from the date on which the patent was granted.

Claim 30, which corresponds to proposed count 2, claims substantially the same subject matter as claim 25 of the present application, which was present when the application was filed. Thus a claim directed to substantially the same subject matter as count 2 was presented within one year after the issue date of the '731 patent. Claim 30 is the same as claim 25 except that claim 25 recites that the catheter balloon is "connected to an" inflation lumen and is "carried adjacent" the distal end of the catheter, and that the catheter segments "form said catheter, but which are both separable into separated segments by the user.". Claim 30 calls for a balloon "on a distal portion of the catheter in fluid communication" with the inflation lumen, with the inflation lumen "extending within the catheter to a distal portion therein". Claim 30 calls for the catheter segments to be "releasably" secured together. Accordingly, a claim to substantially the same subject matter as a claim of the '731 patent was made within one year from the date on which the patent was granted.

As required by 37 C.F.R. §1.608(a), applicant's attorney hereby alleges that there is a basis upon which applicant is entitled to a judgment relative to the patentees.

Applicants respectfully request entry of the above amendments and a prompt declaration of an interference with the '731 and '406 patents.

Applicants wish to bring to the attention of the Patent Office the references listed on the attached PTO-1449 and request that they be considered by the Examiner.

Respectfully submitted,



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Attachment: PTO-1449 Form and references.

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